

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, SEPTEMBER 9, 2003
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:11 a.m. The meeting was recessed by Mayor Murphy at 11:00 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 11:08 a.m. with Council Member Madaffer not present. Mayor Murphy recessed the meeting at 12:00 p.m. to be reconvened at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:07 p.m. with Council Member Madaffer not present. The meeting was recessed at 3:08 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:21 p.m. with Council Member Madaffer not present. Mayor Murphy adjourned the meeting at 4:08 p.m. into Closed Session immediately following the regular meeting in the twelfth floor conference room to discuss anticipated and existing litigation.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-(Excused by R-298334 due to representing City at the Annual League of California Board of Directors Conference in Sacramento)
- (8) Council Member Inzunza-present

Clerk-Abdelnour/Maland/Lane (er/gS)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-not present
- (8) Council Member Inzunza-present

ITEM-10: INVOCATION

Invocation was given by Pastor Don Julian of Grace Brethren Church of San Diego.

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Lewis.

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Jarvis Ross commented on Sea World and the height limit on amusement park rides.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:19 a.m. - 10:23 a.m.)

PUBLIC COMMENT-2:

Colonel Tom Irwin commented on speaking respectfully during Non-agenda Comment.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:23 a.m. - 10:26 a.m.)

PUBLIC COMMENT-3:

Wendy Andrey commented regarding the City's process and the expansion of the La Jolla YMCA.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m. - 10:29 a.m.)

PUBLIC COMMENT-4:

Ron Boshun commented on the City Council's actions and the San Diego Chargers.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. - 10:33 a.m.)

PUBLIC COMMENT-5:

Ian Trowbridge commented on the Council's and the Ethics Commission's procedures.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:36 a.m.)

PUBLIC COMMENT-6:

Steve McWilliams commented on Shelter From the Storm's lawsuit against the City.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. - 10:39 a.m.)

PUBLIC COMMENT-7:

Ken Strang commented on the medical marijuana use ordinance.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:39 a.m. - 10:42 a.m.)

PUBLIC COMMENT-8:

Reverend Ned Wight commented on San Diego's living wage.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:42 a.m. - 10:45 a.m.)

PUBLIC COMMENT-9:

Michelle Brazeau commented regarding San Diego's sister city, Yanti, China.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:45 a.m. - 10:48 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Atkins wished Mr. Gwinn a happy birthday. Ms. Atkins announced that she and Mr. Peters participated in the ribbon cutting ceremony for the new tot lot in North Park. Ms. Atkins also issued an invitation to the public to spend time with her staff to gain an understanding of how hard her staff works and what it is like to work in a council office.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:51 a.m. - 10:55 a.m.)

COUNCIL COMMENT-2:

Council Member Peters commented that he was please to be a part of the ribbon cutting ceremony for the new tot lot in North Park. Mr. Peters announced that September 20th is California Coastal Clean-up Day. Mr. Peters also commented on local football games.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:55 a.m. - 10:58 a.m.)

COUNCIL COMMENT-3:

Mayor Murphy announced that last Friday a significant historical event took place when ground was broken on the Balboa Park to San Diego Bay link.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:58 a.m. - 11:00 a.m.)

CITY MANAGER COMMENT:

None.

CITY ATTORNEY COMMENT:

City Attorney Gwinn announced that the medical cannabis ordinance will be heard by Council next week. Mr. Gwinn thanked Council for their support of the Family Justice Center and urged anyone who is dealing with family violence issues to seek help from the Family Justice Center.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:48 a.m. - 10:51 a.m.)

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

7/31/2003 Special Meeting
8/04/2003
8/11/2003 Adjourned
8/19/2003 Adjourned
8/25/2003 Adjourned
8/26/2003 Adjourned

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:13 a.m. - 10:13 a.m.)

MOTION BY ZUCCHET TO APPROVE. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

* ITEM-100: Settlement with POA - Payment of Overtime related to Super Bowl Work Schedules.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-236) ADOPTED AS RESOLUTION R-298352

Authorizing the sum of \$75,500 to be paid in full satisfaction of all claims for Overtime and Call Back pay related to the Police Department's staffing needs for Super Bowl XXXVII;

Authorizing the City Manager and City Auditor and Comptroller to take any necessary or appropriate actions to implement the intent and purposes of this resolution.

CITY MANAGER SUPPORTING INFORMATION:

This issue was approved/authorized in Closed Session by the Council on May 20, 2003. The Police Officers Association signed the settlement agreement on May 30, 2003.

Police Department management met with the POA in December 2002 to discuss plans for law enforcement staffing needs related to Superbowl XXXVII and associated events. Given the magnitude of this event, its high profile nature, and heightened security concerns at the time, the Department faced extraordinary challenges in deploying its resources most effectively. Significant changes in staffing configurations were necessary. Hundreds of officers were required to adjust their regular work shifts and days off to meet the staffing demands of the various Superbowl events. Many officers were required to extend their normal ten (10) hour shift to a twelve (12) hour shift on Friday, Saturday and/or Sunday. Additionally, many officers were asked to work on what was normally their day off.

These temporary schedule changes triggered overtime and scheduling provisions of the Memorandum of Understanding (MOU) between the City of San Diego and the San Diego Police Officers Association, specifically, Article 32, Overtime, and Article 29, Call Back Pay.

SETTLEMENT: The cost difference between the two interpretations of the Call Back provision as applied to 12 hour shifts resulted in a Settlement cost of \$75,500. This payment has been made by the Auditor based on the Council's Closed Session approval of the Settlement on May 20, 2003.

Lexin/Ruiz

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:13 a.m. - 10:17 a.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-101: Interstate 5/State Route 56 Freeway Connectors.

(Carmel Valley Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-223) ADOPTED AS RESOLUTION R-298357

Authorizing the City Manager to accept a Program Supplement for up to \$375,298 of Demonstration Funds, Fund 38522 for CIP-52-311.0, Interstate 5 /State Route 56 Freeway Connectors;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$375,298 from Fund 38522 for CIP-52-311.0, Interstate 5/State Route 56 Freeway Connectors, contingent upon receipt of a fully executed Program Supplement for that amount;

Authorizing the City Manager to accept a Program Supplement in an amount for up to \$1,942,000 of Corridor Border Infrastructure Funds, Fund 38521, for CIP-52-311.0, Interstate 5/State Route 56 Freeway Connectors;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$1,942,000 from Fund 38521 for CIP-52-311.0, Interstate 5/State Route 56 Freeway Connectors, contingent upon receipt of a fully executed Program Supplement for that amount;

Authorizing the City Manager to accept a Program Supplement for up to \$1,500,000 of Section 330 Surface Transportation Program Funds, pending a fully executed Program Supplement for CIP-52-311.0, Interstate 5/State Route 56 Freeway Connectors;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$1,500,000 for CIP-52-311.0, Interstate 5/State Route 56

Freeway Connectors, pending a fully executed Program Supplement for that amount;

Authorizing the City Auditor and Comptroller to transfer \$40,000 from CIP-58-166.0, SR-56 and I-5 Bike Path Connect Study, to CIP-52-311.0, Interstate 5/State Route 56 Freeway Connectors within Fund 390066, TDA Bike Lane SANDAG Claim FY 2003;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2004 Capital Improvement Program Budget in an amount not to exceed \$1,540,000 in CIP-52-311.0, Interstate 5/State Route 56 Freeway Connectors, of which \$1,500,000 in Section 330 Surface Transportation Program Funds pending a fully executed Program Supplement for that amount and \$40,000 is from Fund 390066;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$40,000 from Fund 390066 for CIP-52-311.0, Interstate 5/State Route 56 Freeway Connectors;

Authorizing the City Auditor and Comptroller to appropriate and expend \$504,324 from Fund 79011 for CIP-52-311.0, for the purpose of providing the required local match for the Federal Demonstration and Corridor Border Infrastructure Funds;

Authorizing the City Manager to process an amendment to the Pacific Highlands Ranch Public Facilities Financing Plan in Fiscal year 2004 or at the earliest possible time thereafter for CIP-52-311.0, Interstate 5/State Route 56 Freeway Connectors Project, by adding \$504,324 in Fiscal Year 2004;

Authorizing the City Manager to execute a consultant agreement with URS Corporation in an amount not to exceed \$1,969,100.73, for professional services related to CIP-52-311.0, Interstate 5/State Route 56 Freeway Connectors, contingent upon the City Auditor and Comptroller first certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager to enter into a Cooperative Agreement with the California Department of Transportation for the Interstate 5/State Route 56 Freeway Connectors Project, contingent upon the City Auditor and Comptroller first certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

CITY MANAGER SUPPORTING INFORMATION:

The Interstate 5 (I-5)/State Route 56 (SR-56) Freeway Connectors Project consists of modifying the access between SR-56 and the section of I-5 north of SR-56 by connections between SR-56 west to I-5 north and I-5 south to SR-56 east. This Council Action will provide for the funding of the Preliminary Engineering Phase of the project and hiring of the consultant, URS Corporation who will prepare the Project CEQA and NEPA Environmental Documents, the Project Report and allow the City Manager to execute a Cooperative Agreement with Caltrans to provide the oversight for the Preliminary Engineering Phase of the project.

FISCAL IMPACT:

The estimated total cost of the Preliminary Engineering Phase of the project is \$4,361,622. In order to receive \$2,317,298 in Demonstration and Corridor Border Infrastructure Funds for the project, the City of San Diego is required to obligate a total of \$579,324 (20% of \$2,896,622) in matching funds, of which \$75,000 was previously obligated. Pacific Highland Ranch Facility Benefit Assessment Funds are being used as the matching fund source. The Section 330 Surface Transportation Program Funds (\$1,500,000) and TDA Bike Lane SANDAG Claim FY 2003 Funds (\$40,000) do not require a local agency match.

Loveland/Belock/PB

Aud. Cert. 2400243.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:22 p.m. - 3:40 p.m.)

MOTION BY PETERS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-102: Authorizing Funds for Pump Stations 1 and 2 Instrumentation/COMNET Upgrade Project and Agreement with Earth Tech Inc. for Construction Management Services.

(See memorandum from Scott Tulloch dated 7/23/2003.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-249) ADOPTED AS RESOLUTION R-298353

Authorizing the expenditure of an amount not to exceed \$264,266 from Sewer Fund No. 41509, CIP-45-920.0, for the purpose of providing funds for construction management services for Pump Stations 1 and 2 Instrumentation Upgrade (Project), to be provided under the Earth Tech Agreement and an amount not to exceed \$80,000 from Sewer Fund No. 41509, CIP-45-920.0, for the purpose of providing contingency funds for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 7/30/2003, NR&C voted 5 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

SUPPORTING INFORMATION:

This request is for authorization to utilize existing funds for as-needed construction management services and for project contingencies associated with the Pump Stations 1 and 2 Instrumentation Upgrade work under the Wastewater Operations Management Network (COMNET) Project, CIP-45-920.0.

The Pump Stations 1 and 2 Instrumentation Upgrade, currently under construction, was approved by the City Council with Resolution R-296644 adopted on June 11, 2002. Project completion is expected in September 2004. Construction management services for this Project are currently provided by Sverdrup Civil Inc. under an existing contract with MWWD that terminates in December 2003. Since Sverdrup will no longer be providing services for this Project, MWWD has negotiated an agreement with the current as-needed Construction Manager, Earth Tech Inc., for construction management services for the referenced project from October 2003 through September 2004. This agreement will authorize the funding necessary to perform these services.

FISCAL IMPACT:

The total of this request is \$344,266, of which \$264,266 is to fund construction management services provided by Earth Tech Inc. and \$80,000 is to fund project contingencies. The funds are available from Sewer Fund 41509, CIP-45-920.0.

Mendes/Tulloch/CR

Aud. Cert. 2400181.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:13 a.m. - 10:17 a.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchett-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-103: Two actions related to North City Water Reclamation Plant Demineralization Facility - Electrodialysis Reversal (EDR) Expansion.

(See memorandum from Scott Tulloch dated 7/23/2003. University Community Area. District-5.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2004-232) ADOPTED AS RESOLUTION R-298354

Authorizing the City Manager to execute an Agreement for the purchase and installation of Electrodialysis Reversal (EDR) equipment with Ionics, Inc. (Agreement) for an amount not to exceed \$1,782,590;

Authorizing the expenditure of an amount not to exceed \$3,687,651 from Sewer Fund No. 41509, CIP-42-915.0, North City Water Reclamation Plant Demineralization Facility, for the purpose of funding the North City Water Reclamation Plant Demineralization Plant Facility Electrodialysis Reversal Expansion Project (the Project) and is allocated as described below, provided that

the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer:

- A) An amount not to exceed \$1,782,590 is allocated to fund the Agreement;
- B) An amount not to exceed \$290,000 is allocated to fund a preliminary study for the Project;
- C) An amount not to exceed \$1,615,061 is allocated for design work, construction, and in-house administration for the Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

Subitem-B: (R-2004-231) ADOPTED AS RESOLUTION R-298361

Declaring that the information contained in the final document, including any comments received during the public review process, has been reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of the Project;

Directing the City Manager to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the Project.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 7/30/2003, NR&C voted 5 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

SUPPORTING INFORMATION:

This request is to provide two additional trains of Electrodialysis Reversal (EDR) at the North City Water Reclamation Plant (NCWRP). In order to meet the projected demands for reclaimed water from the Water Department, it will be necessary to expand the EDR demineralization facility. It is estimated that the reclaimed water usage will increase from the current amount of 3,500 acre feet per year (AFY) to 9,000 AFY by year 2007. This projected reclaimed water demand requires that the demineralization facility be expanded by the summer of 2004.

The NCWRP operates a demineralization facility to reduce the total dissolved solids (TDS) of the reclaimed water produced before it is distributed to users. The existing facility began operation in 1998 and was expanded in 1999 to keep up with the reclaimed water demand. It consists of three EDR trains capable of producing a total of 9 million gallons of demineralized/reclaimed water per day. Currently, ongoing construction is extending the reclaimed water distribution system to access new users.

This expansion will include the installation of two additional EDR trains, bringing the total production capability to roughly 15 mgd capacity of marketable reclaimed water for off site distribution. EDR equipment is highly specialized technology, it must be obtained from Ionics, Inc. the only manufacturer, this will also maintain continuity of equipment at the facility.

This action requests authorization to expend \$3,687,651 which includes \$290,000 for a preliminary study, \$1,782,590 for two trailer mounted EDR trains, and \$1,615,061 for related costs associated with in-house administration, design work, and construction.

The expansion of the EDR demineralization facility will require onsite modifications to the blending process as well as the disinfection. The \$1,615,061 of related costs include the following: 1) Modification to the existing chlorine contact tanks and reclaimed water pump station to adequately disinfect and distribute the increased volume of demineralized reclaimed water to customers; 2) Addition of two new feed pumps, piping, and associated variable frequency drive units to supply flow to the two new EDR units; 3) Addition of a new concrete pad for the EDR units, and 4) Additional electrical and instrumentation will be required to provide 400 amp power supply for each EDR trailer and to control and monitor the units.

FISCAL IMPACT:

This request is for \$3,687,651 and is available in Sewer Fund 41509, CIP-42-915.0, North City Water Reclamation Plant Demineralization Facility.

Mendes/Tulloch/AS

Aud. Cert. 2400152.

FILE LOCATION:

PURCHASE

COUNCIL ACTION:

(Time duration: 10:13 a.m. - 10:17 a.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

* ITEM-104: Appointment to the San Diego Ethics Commission.

(See memorandum from Mayor Murphy dated 8/6/2003 with resume attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-212) ADOPTED AS RESOLUTION R-298355

Council confirmation of the appointment by the Mayor of Edward F. Kolker to serve as a member of the San Diego Ethics Commission, for a 4-year term ending 6/30/2007, replacing Charles LaBella, whose term has expired.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:13 a.m. - 10:17 a.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-150: Two actions related to Utility Trenches in City Streets.

(See City Manager Report CMR-03-089, memorandums from Frank Belock, Jr. dated 8/26/2003 (not available at Committee) and 6/13/2003.)

TODAY'S ACTIONS ARE:

Introduce the ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2003-128) INTRODUCED, TO BE ADOPTED ON MONDAY,
SEPTEMBER 22, 2003

Introduction of an Ordinance amending Chapter 6, Article 2, by adding Division 12, titled "Excavation Fees," Sections 62.1201, 62.1202, 62.1203, 62.1204, 62.1205, 62.1206, 62.1207, 62.1208, and 62.1209, all relating to Payment of Excavation Fees.

Subitem-B: (R-2002-358) ADOPTED AS RESOLUTION R-298358

Finding that an Excavation Fee is established based on the study performed by ERI, Inc. which estimated the cost for, including but not limited to, maintenance, repair or resurfacing necessary to mitigate the damage and degradation that excavation cause to the pavement;

Declaring that the Excavation Fee authorized by Chapter 6, Article 2, Division 12 of the Municipal Code, as added by Ordinance O-2003-128, shall be in the amounts set forth in the Exhibit A;

Declaring that the Excavation Influence Area authorized by Chapter 6, Article 2, Division 12 of the Municipal Code, as added by Ordinance O-2003-128, shall be as set forth in the Exhibit B;

Declaring that the fees herein established do not exceed the estimated reasonable costs of providing the maintenance, repair or resurfacing services necessary to fully mitigate the damage and degradation that excavations cause to the pavement located adjacent to the excavation, and such fees are established in order to compensate and reimburse the City for the estimated reasonable costs of providing such services.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S
RECOMMENDATION:**

On 6/18/2003, RULES voted 5 to 0 to approve the draft ordinance as modified by Mr. Belock's memo of June 13, 2003, with the following four modifications: a) City is required to complete its repairs within 30 days; b) there be a tracking system to provide follow-up and accountability; c) the slurry sealing during the second and third year will be for the entire width of the street; and d) a report back in six months that addresses 1) status of how this ordinance has been effectively implemented, and 2) whether there is a need for more specificity for trench cut repairs. (Councilmembers Peters, Maienschein, Madaffer, Inzunza, and Mayor Murphy voted yea.)

FILE LOCATION: SUBITEM A: NONE
SUBITEM B: MEET

COUNCIL ACTION: (Time duration: 3:40 p.m. - 4:02 p.m.)

MOTION BY ATKINS TO INTRODUCE THE ORDINANCE IN SUBITEM A AND ADOPT THE RESOLUTION IN SUBITEM B WITH THE DIRECTION TO STAFF TO INCLUDE IN THE REPORT COMING BACK IN SIX MONTHS: 1) HOW MANY TIMES UTILITIES WITH A FRANCHISE AGREEMENT CREDITED THE FEE AGAINST THEIR FRANCHISE AGREEMENT; 2) PREPARE A TRACKING SYSTEM FOR UTILITIES THAT HAVE BEEN IN BUSINESS LONGER THAN FIVE YEARS, AS LONG AS THEY PROVIDE A WARRANTY; AND 3) DETERMINE THE AMOUNT OF PROJECTS AND MONEY INVOLVED. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-151: Proposed Pension Reform Commission.

(See City Manager Report CMR-03-172, memorandums from Mayor Murphy dated 7/22/2003 and 7/11/2003, letters from Lisa Briggs dated 7/10/2003 and 6/30/2003, and Jim Gleason's statement.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-213) ADOPTED AS AMENDED AS RESOLUTION R-298359

Establishing pursuant to City Charter Section 43(b) a Pension Reform Committee consisting of nine members including a chairperson who shall be appointed by the Mayor and confirmed by the City Council; the Mayor shall use his best efforts to recruit five appointees who have pension plan management experience and expertise in defined benefit plans; the composition of the Pension Reform Committee shall be as follows:

- D. Five individuals who are not City employees and not City retirees and who have expertise in defined benefit pension plans, law, accounting, stock market investing, or real estate; and
- E. One taxpayer advocate, who is not a City employee or City retiree; and

- F. One member of the City Retirement Board who is not a City employee or City retiree; and
- G. One City retiree who is not a member of the City Retirement Board; and
- H. One City employee who is not a member of the City Retirement Board;

Declaring that prospective members shall be required to execute an affidavit under penalty of perjury declaring that they do not have any business relationship related to providing financial services to CERS or the City (other than as a member of the Board or member of CERS for those members appointed pursuant to paragraphs c, d, and e) to assure that members of the Pension Reform Committee do not have potentially conflicting business relationships with CERS or the City, subsequent to appointment and prior to confirmation; and further, that such prospective member shall refrain from establishing any such business relationship with CERS or the City for a one year period following the dissolution of the Pension Reform Committee;

Establishing pursuant to City Charter Section 43(b) the Pension Reform Committee with the following defined objectives:

- A) Report back to the City Council no later than six months from the date appointments are confirmed;
- B) After reviewing and considering the scope and depth of audit activity currently being conducted by CERS, conduct any additional or supplemental independent audits, studies, or investigations deemed necessary and appropriate;
- C) Examine how the existing pension system has performed compared to other similar systems;
- D) Examine whether changes should be made to the existing pension system;
- E) Examine whether the make-up and representative constitution of the Retirement Board should be restructured;
- F) Examine whether the system should be changed from a defined benefit plan to a defined contribution plan for new employees;
- G) Examine whether the City should join the California Public Employees Retirement System or any other retirement system;
- H) Make any other recommendations as appropriate;

Declaring that the expectation of the Council is for CERS and the Pension Reform Committee to cooperate in the sharing of documents, information, and resources in order for both CERS and the Pension Reform Committee to efficiently and expeditiously fulfill their respective duties and responsibilities.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S
RECOMMENDATION:**

On 8/6/2003, RULES voted 4 to 0 to approve the staff report with the following changes: 1) On page 1, last paragraph, next to the last sentence, modify to read: The Mayor shall use his best efforts to recruit five appointees who have pension plan management experience and expertise in defined benefit plans; 2) page 2, under A: Five individuals who are not City employees, not City retirees, and have no business relationship with CERS (City Employees Retirement System) or the City related to providing financial services; 3) balance of page 2 wherever it says CERS: it would say CERS or the City related to providing financial services; 4) page 3, F, would be reworded to: Report back to the City Council not later than 6 months from the date the appointments are confirmed; 5) and correct some typographical errors. (Councilmembers Maienschein, Madaffer, Inzunza and Mayor Murphy voted yea. Councilmember Peters not present.)

SUPPORTING INFORMATION:

August 6, 2003, the Rules, Finance, and Intergovernmental Relations Committee voted 4-0 to approve the staff report with the following changes: 1) On page 1, last paragraph, next to the last sentence, modify to read: The Mayor shall use his best efforts to recruit five appointees who have pension plan management experience and expertise in defined benefit plans; 2) page 2, under A: Five individuals who are not City employees, not City retirees, and have no business relationship with CERS (City Employees Retirement System) or the City related to providing financial services; 3) balance of page 2, wherever it says CERS: it would say CERS or the City related to providing financial services; 4) page 3, F, would be reworded to: Report back to the City Council not later than 6 months from the date the appointments are confirmed; 5) and correct some typographical errors.

Baber/Bock

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:09 a.m. - 12:00 p.m.; 2:07 p.m. - 3:07 p.m.)

MOTION BY MAIENSCHIEIN TO ADOPT THE RESOLUTION WITH THE FOLLOWING AMENDMENTS: 1) DELETE THE SENTENCE "THE MAYOR SHALL USE HIS BEST EFFORTS TO RECRUIT FIVE APPOINTEES WHO HAVE PENSION PLAN MANAGEMENT EXPERIENCE AND EXPERTISE IN DEFINED BENEFIT PLANS."; 2) ON PAGE 2, SUBSECTION A, DELETE THE END OF THE

SENTENCE “LAW, ACCOUNTING, STOCK MARKET INVESTING, OR REAL ESTATE”; 3) ON PAGE 2, SUBSECTION E, CHANGE “ONE CITY EMPLOYEE WHO IS NOT A MEMBER OF THE CITY RETIREMENT BOARD” TO “ONE CITY EMPLOYEE”; 4) ON PAGE 3, SUBSECTION A, CHANGE “SIX MONTHS” TO “120 DAYS”; 5) ON PAGE 3, SUBSECTION C, ADD “AND INCLUDE ACTIONS TAKEN TO ADDRESS SHORTFALLS, SUCH AS PENSION OBLIGATION BONDS”; AND 6) ON PAGE 3, ADD A NEW “C” THAT READS “PRESENT RECOMMENDATIONS ON ADDRESSING THE UNFUNDED LIABILITY OF THE SYSTEM.” AND THEN RE-LETTER THE REMAINDER OF THE LIST. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: Application for State of California CalHome Program Funding.

(See San Diego Housing Commission Report HCR-03-049.)

SAN DIEGO HOUSING COMMISSION’S RECOMMENDATION:

Adopt the following resolution:

(R-2004-229) ADOPTED AS RESOLUTION R-298360

Delegating responsibility to the San Diego Housing Commission’s Chief Executive Officer (CEO) to make application for, receive funding, amend the Housing Commission budget, and administer the CalHome Program on behalf of the City of San Diego;

Directing the CEO to submit to the Department of Housing and Community Development (HCD) an application(s) to participate in the CalHome Program in response to the Notice of Funding Availability (NOFA) issued July 16, 2003, and any subsequent NOFAs issued, and to request a funding allocation for first-time homebuyer mortgage assistance loans;

Declaring that, if the application for funding is approved, the City of San Diego shall use the CalHome funds for eligible activities in the manner presented in the application as approved by HCD and in accordance with program guidelines;

Authorizing the CEO to execute in the name of the City of San Diego, the application, the Standard Agreement, and all other documents required by HCD for participation in the CalHome Program, and any amendments thereto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:03 p.m. - 4:03 p.m.)

MOTION BY FRYE TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-250: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that proposals shall be submitted to the City Clerk, who then shall transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the Tuesday, March 2, 2004 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	09/26/2003	158	Council Docket lists proposals reviewed by Rules Committee
Wednesday	10/01/2003	153	Rules Committee review
Monday	10/27/2003	127	Council Docket Public Notice lists proposals referred by Rules Committee
Monday	11/03/2003	120	Council adopts propositions for
	through	to	ballot & directs City Attorney
Monday	11/17/2003	106	to prepare ordinances

Monday	11/24/2003	99	Council adopts ordinances prepared by City Attorney
Friday	12/05/2003	88	Last day for City Clerk to file with Registrar of Voters <u>all</u> elections material
Thursday	12/18/2003	75	Last day to file ballot arguments with City Clerk.

If you have any questions, please contact the Office of the City Clerk, 533-4025.

ITEM-S500: Ethics Commission Audit Manual.

(See memorandum from Charles B. Walker dated 7/28/2003.)

(Continued from the meeting of 9/2/2003, Item 109, at the request of Councilmember Frye, for further review.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-211) ADOPTED AS RESOLUTION R-298356

Approving the City of San Diego Ethics Commission Revised Audit Manual, for use by the Ethics Commission.

RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S RECOMMENDATION:

On 08/06/2003, RULES voted 4 to 0 to approve the revisions to the City of San Diego Ethics Commission Audit Manual. (Councilmembers Maienschein, Madaffer, Inzunza, and Mayor Murphy voted yea. Councilmember Peters not present.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:17 a.m. - 10:18 a.m.)

COUNCIL ACTION: (Time duration: 4:03 p.m. - 4:08 p.m.)